



U.S. Department Of Housing and Urban Development
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March 27, 2014

Certified Mail - Return Receipt Requested

Ailrick Young, Assistant Executive Director
Laurel Housing Authority
701 Beacon Street
Laurel, Mississippi 39440

Subject: Title VI Letter of Findings for the
Limited Compliance Review of the Laurel Housing Authority
Case Number: 04-14-R001-6 (Title VI of the Civil Rights Act of 1973)

Dear Mr. Young:

The Department of Housing and Urban Development, Atlanta Regional Office of Fair Housing and Equal Opportunity (the Department) has completed its limited compliance review of the Laurel Housing Authority opened December 16, 2013. The review was initiated as the result of irregularities identified during a review of the housing authority's application to participate in the Rental Assistance Demonstration Program. The review was conducted under the authority of Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations.

Title VI mandates that "[n]o person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance" (42 U.S.C. § 2000d). LHA is a recipient of Federal financial assistance and is therefore subject to Title VI.

Based on evidence collected during the compliance review, the Department has determined that the Laurel Housing Authority is in noncompliance with Title VI.

I. BACKGROUND

In February of 2013, the Laurel Housing Authority (LHA) submitted two applications to participate in the Department's Rental Assistance Demonstration Program (RAD), 1st Component.¹ RAD allows a public housing agency with significant capital needs to convert their Annual Contributions Contract (ACC) to a long-term Section 8 rental assistance contract. Under 1st Component, public housing agencies (PHAs) and Moderate Rehabilitation properties (Mod Rehab) may choose between two forms of Section 8 Housing Assistance Payment (HAP) contracts: project-based vouchers (PBVs) or project-based rental assistance (PBRA). According

¹ RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (P.L. 112-55, approved November 18, 2011) which provided fiscal year 2012 appropriations for HUD.

to its RAD applications, LHA wanted to convert 130 family ACC units at its Beacon Homes site to PBV units. LHA proposed demolition of all 130 units slated for conversion and construction of 100 elderly-only apartments (all two bedroom units) and 30 family apartments (25 three bedroom units and five four bedroom units) on the existing site.

The Department's Office of Fair Housing and Equal Opportunity (FHEO) reviews all RAD applications and significant amendments to applicants' Public Housing Agency plans (PHA Plan) and all RAD FHEO Accessibility and Relocation Plan Checklists (FHEO Checklist) to determine consistency with applicable civil rights laws, regulations and civil rights-related program requirements. During the FHEO review of the LHA's significant amendment to its PHA plan, several potential problems related to the relocation of residents from the Beacon Homes site were identified.² Based on the information submitted by LHA it was unclear when impacted residents would be relocated and to where those residents would be relocated. Furthermore, it was unclear whether LHA's plans were in compliance with the RAD program's requirement that any residents temporarily relocated to facilitate rehabilitation or construction have a right to return to an assisted unit at the development once rehabilitation or construction is completed.³ The RAD Notice prohibits permanent involuntary displacement of the project's residents as the result of RAD conversion.⁴

On June 11, 2013, FHEO requested (through the RAD team) that LHA provide information regarding the tenants' right to return to the redeveloped property, and a description of the relocation benefits that would be provided to the tenant's pursuant to the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (URA).⁵

On July 18, 2013, LHA submitted relocation information initially provided to the Special Applications Center (SAC) of the Department in conjunction with a demolition and disposition application submitted in January 2013 for the same 130 units in the Beacon Homes development.⁶ According to this relocation plan, 125 of the 130 units were occupied at the time of application and 321 residents, including 183 children would be impacted. Additionally, this application provided that Housing Choice Vouchers (HCVs) would be provided to all displaced tenants who wanted them and indicated that the estimated relocation costs associated with the demolition were \$121,550.

On July 29, 2013, FHEO received an FHEO Checklist that indicated that no tenants would be displaced as a result of the conversion. FHEO contacted RAD team members about the discrepancies between the checklist and the previously submitted relocation plan and asked for clarification.

On August 20, 2013, FHEO received two new FHEO Checklists from LHA. In the relocation plan section of the form, LHA provided the following narrative:

² LHA submitted its significant amendment on June 7, 2013.

³ See PIH Notice 2012-32, Section 1.6.C.2

⁴ See PIH Notice 2012-32, Section 1.5.B.

⁵ The RAD program requires that any relocation of residents comply with the URA. See PIH Notice 2012-32, Section 1.4.A.3.

⁶ The demolition and disposition application was never approved by the SAC or reviewed by FHEO.

All units have been vacated voluntarily by residents. There has been no conversion of assistance since all have been relocated to Laurel Housing Authority public housing units or to units qualified under the Housing Choice Voucher (HCV) Program.

Despite these assertions, the attachments included with the forms indicated that 18 families voluntarily left the public housing program and received no HCV or replacement public housing units and 27 families were “evicted for violations of public housing requirements.”⁷ Because of these inconsistencies, FHEO initiated a targeted compliance review to determine whether a violation of Title VI occurred.

II. SUMMARY OF FINDINGS

FHEO reviewed the tenant files for 27 heads of household who were evicted, according to LHA.⁸ All of the evicted tenants were African American. The evidence collected shows that none of the tenants vacated their units as a result of a judicial action that satisfied the due process requirements found in the regulations. Additionally, LHA did not use an administrative grievance procedure that was consistent with regulatory requirements.

The evidence also showed that five tenants were evicted for alleged drug activity inside their units, but the tenant files provided by LHA include no supporting evidence for those claims beyond allegations from a LHA staff member.⁹ The evidence also shows that these tenants were not provided the requisite two-day written notice that LHA staff would be entering their units when the alleged drug activity occurred as required by HUD regulation.¹⁰ This failure to provide notice may constitute a violation of the tenants’ constitutionally protected right against unreasonable searches and seizures.¹¹

A. The Manner in which LHA Conducted the RAD Conversion of Beacon Homes Adversely Affected African American Tenants in Noncompliance with Title VI.

The Beacon Homes units that were the subject of LHA’s RAD conversion request were occupied primarily by African American tenants.¹² Since LHA planned to demolish the site and rebuild, all of the tenants living there would need to be relocated to other public housing units, be provided Housing Choice Vouchers or be provided other comparable housing opportunities.¹³

⁷ According to the information provided by LHA with its August 20, 2013 submission, 127 families would be displaced as the result of the demolition of the Beacon Homes site.

⁸ The names of the tenants evicted, along with the basis for the evictions provided by LHA is included in Appendix I.

⁹ A staff member identified in tenant files as “Investigator Pitts” is the sole accuser in all five instances of alleged drug activity. LHA’s basis for eviction in four of the five cases was “suspected marijuana” in the tenant’s units and in one case was “marijuana found in unit.” No evidence was included in the tenant file indicating what happened to the marijuana found in the tenant’s unit and there was no evidence that the police were ever notified.

¹⁰ 24 C.F.R. § 966.4(j)(1)(2005).

¹¹ PHAs are allowed to enter a tenant’s unit without notice only in those instances where there is “reasonable cause to believe an emergency exists.” 24 C.F.R. § 966.4(j)(2)(2005). *See also*, U.S. Const. Amend IV.

¹² The Beacon Homes site was 97.6% African American.

¹³ *See* PIH Notice 2012-32, Section 1.6.C.2 and Section 1.7.B.2.

During the course of our review, we determined that 27 tenants were evicted from the Beacon Homes site; all of these individuals were African American.

1. There is No Evidence that Evicted Beacon Homes Tenants Received Required Due Process.

Notice of lease termination or eviction must state specific grounds for termination and must inform the tenant of her right to respond; the right to examine relevant documents; and whether the tenant has a right to request a hearing.¹⁴

The United States Housing Act of 1937 requires that a PHA provide tenants with the opportunity for an administrative hearing before initiating eviction proceedings in local or state landlord tenant courts.¹⁵ Department regulations provide that PHAs may terminate tenancy only for “serious or repeated violation of material terms of the lease,” such as failure to pay rent timely; failure maintain a household in a decent, safe and sanitary manner; exceeding income limits or; other good cause, including criminal activity.¹⁶

Based on the regulations, PHAs can evict tenants two ways: (1) by bringing a court action or; (2) by bringing an administrative action if the law of the jurisdiction permits eviction by administrative action, after a due process administrative hearing.¹⁷ For certain criminal-related evictions, PHAs may bypass the administrative hearing requirement, but only in those instances in which HUD has made a determination that local law requires a pre-eviction court hearing that provides the basic elements of due process.¹⁸ These determinations are published in the Federal Register.¹⁹ All evictions, whether judicial or administrative, must afford the tenants with the elements of due process.²⁰

The elements of due process are defined as (1) adequate notice to the tenant of the grounds for terminating the tenancy and for eviction; (2) the right of the tenant to be represented by counsel; (3) an opportunity for the tenant to refute the evidence presented by the PHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense she might have and; (4) a decision on the merits.²¹

When criminal activity is at issue, HUD regulations permit a PHA to evict a tenant by judicial action without providing a separate administrative hearing.²² In these instances, the PHA must determine that the tenant has engaged in criminal activity regardless of whether the person

¹⁴ 24 C.F.R. § 966.4(l)(3)(ii)(2005); 24 C.F.R. § 966.4(m)(2005).

¹⁵ 42 U.S.C. § 1437d(k)(2013).

¹⁶ 24 C.F.R. § 966.4(l)(2)(2005).

¹⁷ 24 C.F.R. § 966.4 (2005)

¹⁸ 24 C.F.R. § 966.51(a)(2)(i)(2005).

¹⁹ 24 C.F.R. § 966.51(a)(2)(iii)(2005).

²⁰ 42 U.S.C. § 1437d(k)(2013). HUD issued a due process determination for Mississippi that was published in the Federal Register on September 11, 1996. This determination recognized the unlawful entry and detainer action in the County and Circuit Courts under Section 89-7-1 *et seq.* of the Mississippi Code Annotated. *See* 61 Fed. Reg. 177 (September 11, 1996).

²¹ 24 C.F.R. § 966.53(c)(1)-(4)(2005).

²² 24 C.F.R. § 966.4(l)(5)(iii)(2005).

has been arrested or convicted for such activity and without proof beyond a reasonable doubt.²³ If the PHA claims that drug-related activity has occurred, proof that illegal drugs were involved will be needed, as well as “some proof tying the sale, possession, use, manufacture etc. of the drugs to the tenant being evicted.”²⁴

If HUD has issued a due process determination²⁵ and the PHA is terminating the lease through the judicial eviction procedures for which HUD has issued a due process determination, the regulations contain three bases for termination that are not subject to the PHA’s grievance process: (1) criminal activity that threatens the health, safety, or right of other residents to peaceful enjoyment of the property; (2) any violent or drug-related criminal on or off the property; or (3) any criminal activity resulting in the felony conviction of a household member.²⁶

In all 27 instances of eviction reviewed by FHEO, the evidence indicates that the elements of due process were not met.²⁷ Twenty-five of the case files include notices to vacate their units that included the reason for eviction and articulated the tenant’s right to challenge the eviction through the grievance process; to review and copy files relevant to the eviction; and right to be represented by counsel in court. In two files, no notice to vacate was provided by LHA to the tenants, which may constitute a violation of HUD regulations.²⁸

A review of the tenant files showed that eight of the 27 tenants required to leave the property received notices that the LHA’s decision to evict was upheld after an informal hearing; no information was provided regarding the substance of those hearings, or whether the tenants even attended. Regulations require that tenants have an opportunity to refute the evidence presented by the PHA, including the right to confront and cross-examine witnesses, present affirmative or equitable defenses and receive a decision on the merits.²⁹ On February 19, 2014, FHEO asked LHA staff if there was any information related to these evictions that was not included in the initial response to the data request; staff indicated that they submitted all documents in their possession. As a result, we can only conclude that these informal hearings (for which there is no record in 19 instances) did not meet the requisite due process obligations. Additionally, the fact that LHA did not use the judicial eviction procedure determined by HUD to be consistent with the basic elements of due process, further supports the conclusion that tenants were treated in a manner inconsistent with Federal law and HUD regulations, as well as LHA’s own grievance procedure.

2. Tenants Did Not Receive Reasonable Advance Notice that LHA Staff Would Enter their Units as Required by Federal Law and HUD Regulations

HUD regulations require that PHAs provide “reasonable advance notification” before

²³ 24 C.F.R. § 966.4(l)(5)(iii)(2005).

²⁴ Public Housing Occupancy Guidebook, 203 (2003).

²⁵ Notices listing the judicial procedures for which the Department has issued due process determinations are published in the Federal Register as is required by 24 C.F.R. § 966.51(a)(2)(iii)(2005).

²⁶ 24 C.F.R. § 966.51(2005).

²⁷ See Appendix I.

²⁸ 24 C.F.R. § 966.4(l)(3)(2005).

²⁹ 24 C.F.R. § 966.53(c)(3)-(4)(2005).

entering a tenant's unit.³⁰ The PHA may enter a unit without the requisite notice when there is "reasonable cause to believe" that an emergency exists *and* if the tenant and all adult members of the household are not present.³¹ Entry for security purposes by PHA staff or police departments is not considered an emergency under this section of the regulations.³² Police departments must have a search warrant or exigent circumstances to enter a tenant's unit.³³

On five occasions, tenants were evicted for having "suspected marijuana" or for "marijuana found" in their units. However, LHA provided no evidence that written notice was provided to tenants two days prior to the entry of their units, or any evidence of a police officer serving a search warrant or determining that exigent circumstances that would allow entry without a warrant existed.

In the absence of any evidence that LHA staff provided notice before entering these tenants' units; any evidence that an emergency existed that would constitute an exception to the notice requirement; or any evidence of search warrants or exigent circumstances, we can only conclude that LHA staff entered these tenants' units without proper notice in violation of HUD regulations.

3. LHA's Methods of Administering its Public Housing Program, its Failure to Follow Federal Law, Department Regulations and Failure to Follow its Own Grievance Procedure Negatively Affected African American Tenants

All of the tenants impacted by the actions documented in this letter were African American. The manner in which LHA administered its public housing program adversely affected tenants who were disproportionately African American.

The Title VI implementing regulations promulgated by HUD provide the following:

"[a] recipient...may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting persons to discrimination because of their race, color, or national origin or have the effect of defeating or substantially impairing accomplishment of the objectives of the program or activity as respect to persons of a particular race, color, or national origin."³⁴

The fact that LHA's failure to follow Federal law, HUD regulations and its own grievance procedure impacted exclusively African American residents supports a finding that LHA's actions were not compliant with Title VI.

³⁰ "A written statement specifying the purpose of the PHA entry delivered to the dwelling unit at least two days before such entry shall be considered reasonable advance notification," 24 C.F.R. § 966.4(j)(1)(2005).

³¹ 24 C.F.R. § 966.4(j)(2)-(3)(2005). If no adults are present when PHA staff enters a unit, staff must leave a written notice that includes the time, date and purpose for entering.

³² Public Occupancy Guidebook, 200 (2003).

³³ *Id.*

³⁴ 24 C.F.R. § 1.4(a)(2)(1)(2005).

III. SUMMARY OF CONCERNS

A. Program Concern: Potential Uniform Relocation Assistance and Real Property Acquisitions Policies Act (URA) Violations.

The URA applies to the relocation of persons from real property as a direct result of acquisition, rehabilitation, or demolition for a federally funded program or project.³⁵ Based on the evidence we have reviewed, we conclude that all of the tenants displaced from the Beacon Homes property were moved so that the property could be demolished in furtherance of the RAD transaction. While a determination of those tenants' eligibility to receive benefits under the URA is beyond the scope of this review, we have serious concerns that individuals who were eligible did not receive benefits to which they were entitled. As such, this matter will be referred to the appropriate HUD Regional Relocation Specialist for review.

B. Program Concern: Potential Violation of the RAD Notice.

Based on the evidence we have reviewed, we are concerned that LHA may have violated some provisions of the RAD Notice, including, but not limited to, the following:

1. The RAD Notice requires that any relocation conducted in conjunction with a RAD conversion comply with the URA.³⁶
2. The Notice expressly prohibits the permanent involuntary displacement of tenants as the result of a project's conversion of assistance.³⁷ The 27 evictions we examined during the course of our compliance review may be inconsistent with this RAD requirement. Additionally, we have serious concerns that the tenants affected by LHA's conversion have not been afforded their right to return to the converted project as is required by the RAD Notice.³⁸

Since these potential violations are beyond the scope of this review, we will refer these matters to RAD senior management for review.

C. Title VI Finding.

Based on the foregoing, the Department has concluded that the Laurel Housing Authority has failed in its obligation to administer its programs and activities in compliance with Title VI of the Civil Rights of 1964 and that it has used excluded persons from participation in a federally assisted programs on the basis of race in violation of 24 CFR 1.4(b)(1)(iv) and 24 CFR 1.4(b)(1)(vi) and has used criteria or methods of administration that have the effect of subjecting persons to discrimination on the basis of race in violation of 24 CFR 1.4(b)(2)(i).

³⁵ See 42 U.S.C. § 4601 *et seq.*

³⁶ See PIH Notice 2012-32, Section 1.4.A.3.

³⁷ See PIH Notice 2012-32, Section 1.5.B.

³⁸ See PIH Notice 2012-32, Section 1.6.C.2.

IV. CONCLUSION

As set forth in detail in Section II above, the Department's investigation found that the Laurel Housing Authority failed to comply with Federal law, HUD regulations and its own grievance policy. This failure had a negative effect on African American tenants in noncompliance with Title VI of the Civil Rights Act of 1964. As a result of these findings, LHA will immediately be placed on the civil rights threshold list and will be ineligible for Notices of Funding Availability (NOFAs) and other funding opportunities provided by the Department and ineligible for consideration of any future RAD applications until these matters are resolved to HUD's satisfaction.

The Department would like to resolve these matters as soon as possible. Such resolution will include the corrective actions necessary to resolve these findings. This resolution must also address any and all damages resulting from the actions taken by LHA against the tenants listed in Appendix I. This resolution must be reduced to a written Voluntary Compliance Agreement (VCA) with a clear timetable for implementation. *See* 24 C.F.R. § 1.7(d)(1). After you receive this LOF, I will contact you to coordinate mutually convenient dates to negotiate the terms of the VCA.

Please note that under the Freedom of Information Act, it may be necessary to release this document and related correspondence and records upon a third party's request. In the event the Department receives such a request, we will protect, to the extent provided by law, personal information, which, if released, would constitute an unwarranted invasion of privacy.

The Department looks forward to a prompt resolution of this matter. If you have questions, please contact me at 404-331-5001 or by email at Carlos.Osegueda@hud.gov.

Sincerely,



Carlos Osegueda
FHEO Region IV Director
Office of Fair Housing and Equal Opportunity

cc:

Marcia Lewis, Acting Director Jackson HUB of Public and Indian Housing

Margaret Salazar, Associate Deputy Assistant Secretary

of Affordable Housing Preservation

Krista Mills, Director, FHEO Programs and Compliance Division, Region IV

Marilyn M. Moore-Lemons, FHEO Field Office Director, Mississippi

Appendix I

Tenant Name	Status	Basis for Eviction	Received Notice to Vacate	Received Notice Referencing Informal Hearing
Vanessa Ainsworth	Evicted	Unknown	N	N
Maranda Bruce	Evicted	"chronically" delinquent account	Y	N
Eureeka Carr	Evicted	"Chronically" delinquent account; informal hearing denied in writing.	Y	N
LaFrance Cooley	Evicted	Tampering with smoke detector	Y	N
Shaquilla Edward	Evicted	"chronically" delinquent account	Y	N
Totoro Evans	Evicted	"suspected" marijuana/one strike & "chronically" delinquent account	Y	N
Renee Hardy	Evicted	Relative with a bench warrant in apartment/one strike	Y	Y
Robin Hasberry	Evicted	"suspected" marijuana/one strike	Y	Y
Danval Jones	Evicted	tampering with smoke detector	Y	Y
Shonmeal Lewis	Evicted	"chronically" delinquent account	Y	N
Lester McClellan	Evicted	Unknown	N	N
Benita McCullum	Evicted	"suspected" marijuana/one strike	Y	N
Lashebia McGill	Evicted	marijuana in apartment/one strike	Y	Y
Misty McLeod	Evicted	"chronically" delinquent account	Y	N
Leroy McNairy	Evicted	Incarcerated extended period of time	Y	N
Elizabeth Miller	Evicted	Malcolm Love was arrested running out of the back of the tenant's unit. Love had an outstanding bench warrant and tenant was present during the incident. One strike for criminal activity.	Y	N

Tenant Name	Status	Basis for Eviction	Received Notice to Vacate	Received Notice Referencing Informal Hearing
Gregory Perryman	Evicted	Tampering with smoke detector	Y	N
Swazilyn Pollock	Evicted	Boyfriend Mitch Washington crashed a car into her apartment/one strike lease violation for criminal activity	Y	Y
Dorothy Quarells	Evicted	"suspected" marijuana/one strike	Y	N
Gloria Rogers	Evicted	"chronically" delinquent account	Y	N
Quiana Shelby	Evicted	"chronically" delinquent account	Y	N
Oshanna Simmons	Evicted	"chronically" delinquent account	Y	Y
Noetta Straughn	Evicted	Failed three housekeeping inspections	Y	N
Taneshia Turner	Evicted	"chronically" delinquent account	Y	N
Lacoya Ward	Evicted	"chronically" delinquent account	Y	N
Shilk Watkins	Evicted	"suspected" marijuana/one strike	Y	Y
Vera Williams	Evicted	"chronically" delinquent account	Y	Y